Submission No: 41

Panel of Experts – Political Donations

Submitted by Stephen Albin, Chief Executive

Urban Development Institute of Australia

Date: 17 September 2014

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Dr Kerry Schott
Chair
Expert Panel on Political Donations
GPO Box 5341
Sydney NSW 2001

By Email: donationsreform@dpc.nsw.gov.au

Dear Dr Schott,

The Urban Development Institute of Australia (UDIA) NSW is the leading property industry group promoting the responsible growth of this State. We have around 500 company members and more than 3,000 of their employees attend our events, sit on our committees, undertake training or are involved in the activities of the organisation on an annual basis. Our organisation is the oldest property development advocacy group in the country and was established in 1962.

UDIA NSW is governed by a 13 person Council that is elected annually by the membership. We have 8 policy committees that meet monthly and they actively advise the council on policy positions. To maintain a balanced perspective for the benefits of all our membership, UDIA NSW does not lobby for specific projects – we are a research and public policy based organisation.

UDIA NSW congratulates the Premier on the establishment of a panel of experts to consider the matter of political donations and the public funding of election campaigns. Recent happenings at the Independent Commission Against Corruption (ICAC) indicate the difficulty of the task at hand for the Expert Panel. At the outset, UDIA NSW believes that any wrongdoing uncovered by the ICAC with respect to developers and politicians should be the subject of the full force of the law. Regardless of the merits of the law, it was (and remains) the law and those that have knowingly broken the law should be prosecuted. The current issues being exposed by ICAC have not occurred because there is a lack of laws relating to political donations, they are the result of a lack of adherence to existing laws. Increased penalties, fines and better policing of political donations would have gone a way to deter such breaches.

We have reviewed the submissions provided to date along with the Discussion Papers that have been commissioned by the Expert Panel. It would appear that there is little support for the public funding of election campaigns – from a legal, international experience and public perspective. There seems to be substantial shifts in the distribution of political party finances from the move to complete public funding of election campaigns. There is also a common theme regarding the constitutionality of introducing such laws. We have concerns regarding the advantages conferred on incumbents from the complete public funding of election campaigns. The issue of publically funded campaign (via tax payer monies) from an electoral acceptance viewpoint would also be debatable.

UDIA also recognises that recent cases considered by the High Court may place in question the

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constitutional validity of prohibiting political donations by certain industries and groups.

If this is the case, as an alternative to prohibiting and discriminating against certain industries and groups, it may make more sense to address the causes of the problems and not the symptoms.

In the event that any acceptance of publically funded campaigns is not acceptable from a legal and public viewpoint (and that is UDIA NSW's position), UDIA NSW proposes that the Expert Panel considers the following measures to address the wider issues of the conferring of benefits by recipients of donations:

- Impose a cap on political donations by individuals, corporations and groups to appropriate and only very moderate levels.
- Introduce a system of continuous and immediate disclosure of all political donations (local, State and Commonwealth) with full on-line public access to this information via the AEC.
- Tighten the laws and increase the penalties relating to breaches of cap and non-disclosure, including the introduction of anti-avoidance and grouping measures.
- Remove politicians (Federal/State/Local Government) from making decisions on specific development approvals, referral agency approvals and re-zonings (as was originally proposed in the new planning system reforms that were abandoned in the Legislative Assembly of the Parliament of NSW in 2013).

UDIA NSW would welcome the opportunity to meet with the Expert Panel to discuss these matters further. Should you have any matters you wish to discuss I can be contacted on salbin@udia-nsw.com.au.

Yours sincerely

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